

## § 26.102

Puerto Rico, plus the direct costs of processing operations performed in Puerto Rico, equals or exceeds 50 percent of the value of the beer when it is brought into the United States.

(Aug. 16, 1954, Chapter 736, 68A Stat. 907, as amended (26 U.S.C. 7652))

[T.D. ATF-206, 50 FR 15888, Apr. 23, 1985]

### § 26.102 Application and permit, Form 2900.

When beer of Puerto Rican manufacture is to be withdrawn for shipment to the United States, or for use in making an article for shipment to the United States, application for permit to compute the tax on, and to withdraw, the beer shall be made by the brewer on Form 2900, in quintuplicate. If the withdrawal is to be made in hogsheads, barrels, or kegs, the brewer shall enter the total number of each size, according to capacity, of containers which it is desired to withdraw. If the withdrawal is to be made in bottles, the brewer shall enter the number of cases, size of bottles, number of bottles per case, the total contents thereof in gallons (liquid measure), and the equivalent thereof in barrels and fractions of barrels of 31 gallons each. The brewer shall forward all copies of the Form 2900 to the Secretary. If the application is properly prepared and is otherwise in order, the Secretary or his delegate shall execute the permit, retain one copy, and return the original and three copies to the brewer.

[T.D. 6695, 28 FR 12934, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-251, 52 FR 19338, May 22, 1987]

### § 26.103 Computation of tax.

On receipt of permit to compute the tax on Form 2900 the brewer shall compute and enter the amount of the tax on all copies of the form.

[T.D. 6695, 28 FR 12934, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975]

### § 26.104 Deferred payment of tax—release of beer.

(a) *Action by brewer.* Where the brewer has furnished bond on Form 2898, and payment of the tax is to be deferred, he shall execute the agreement on Form 2900 to pay the amount of tax

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which has been computed and entered on the form. He shall also certify under the penalties of perjury that he is not in default of any payment of tax chargeable against his bond, and that his bond is in the maximum penal sum, or that it is sufficient to cover the amount of tax on the beer described on the form in addition to all other amounts chargeable against his bond. The brewer shall deliver all copies of Form 2900 to the revenue agent.

(b) *Action by revenue agent.* On receipt of Form 2900, the revenue agent shall verify the computation of the tax entered on the form, and if the proprietor has on file a good and sufficient bond, Form 2898, so indicate on Form 2900. The revenue agent shall then execute his report of release on the Form 2900 and release the beer for the purpose authorized on the form. The completed form shall be distributed in the same manner as provided for TTB Form 5110.51 in § 26.80(b). Where the revenue agent finds that the proprietor does not have good and sufficient bond coverage, or that the proprietor is in default of payment of any taxes previously charged to his bond, he shall return all copies of Form 2900 to the proprietor, giving his reasons for such action.

[T.D. 6695, 28 FR 12934, Dec. 5 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71712, Dec. 11, 1979. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

### § 26.105 Prepayment of tax—release of beer.

(a) *Action by brewer.* Where the beer is to be withdrawn from bonded storage after payment of the computed tax the brewer shall enter the amount of such computed tax on all copies of TTB Form 2900 (5100.21) and execute the statement that such tax is being prepaid. The brewer shall then prepare TTB Form 5000.25 in duplicate and send the original with all copies of TTB Form 2900 (5100.21) and the remittance in full for the tax, to the appropriate TTB officer.

(b) *Action by appropriate TTB officer.* On receipt of TTB Forms 2900 (5100.21) and 5000.25, and remittance covering prepayment of tax, the appropriate TTB officer shall execute the receipt

on TTB Form 5000.25 and execute the report of prepaid taxes on all copies of TTB Form 2900 (5100.21). The appropriate TTB officer shall then retain the originals of TTB Forms 2900 (5110.21) and 5000.25 and forward the remaining copies of TTB Form 2900 (5100.21) in accordance with the instructions of the form.

(c) *Action by revenue agent.* On receipt of TTB Form 2900 (5100.21) executed by the appropriate TTB officer to show receipt of TTB Form 5000.25 and remittance, the revenue agent shall execute the report of release on the TTB Form 2900 (5100.21) and release the beer for the purpose authorized on the form. The completed TTB Form 2900 (5100.21) shall be distributed according to the instructions on the form.

(Approved by the Office of Management and Budget under control number 1512-0149 and 1512-0497)

[T.D. ATF-277, 53 FR 45268, Nov. 9, 1988]

#### § 26.105a Permit to ship.

Beer released from bonded storage under § 26.104 or § 26.105 may not be shipped to the United States until permit for such shipment has been obtained from the Secretary as provided in §§ 26.114 through 26.116.

[T.D. 6695, 28 FR 12935, Dec. 5, 1963. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

#### § 26.106 Marking containers of beer.

Containers of beer of Puerto Rican manufacture which are to be shipped to the United States must be marked with the name of the brewer; the serial number, capacity, and size of the container; the kind of beer; and the serial number of the withdrawal permit, Form 487B, prefixed by the number of such form, e.g., "487B-61-3."

### ARTICLES

#### § 26.107 Taxable status.

Articles of Puerto Rican manufacture which are to be shipped to the United States and which are not exempt from tax under the provisions of § 26.36 are subject, under section 7652(a) to a tax equal to the tax imposed by the internal revenue laws of the United

States. If such articles contain distilled spirits, the tax will be collected at the rate prescribed by 26 U.S.C. 5001(a)(1) on all alcohol contained therein, regardless of the source. Such articles containing only wine and/or beer will be taxed at the rates prescribed by 26 U.S.C. 5041 and/or 5051, respectively. A formula covering the manufacture of each article shall be filed by the manufacturer in accordance with subpart D of this part.

[T.D. ATF-62, 44 FR 71712, Dec. 11, 1979. Redesignated and amended by T.D. ATF-459, 66 FR 38550, July 25, 2001]

#### § 26.108 Application for permit, TTB Form 5110.51 and/or Form 2900.

(a) *Distilled spirits.* Where distilled spirits of Puerto Rican manufacture are to be used in the manufacture of the articles to be shipped to the United States, the manufacturer shall make application on Form 5110.51, in accordance with the applicable provisions of § 26.78.

(b) *Wine and/or beer.* Where wine and/or beer of Puerto Rican manufacture is to be used in the manufacture of the articles to be shipped to the United States, the manufacturer shall make application on Form 2900, in accordance with the applicable provisions of §§ 26.93 and/or 26.102. Wine and beer may be included in the same application.

(c) *Approval of applications.* The Secretary, or his delegate, shall approve and dispose of the applications in the manner prescribed in §§ 26.78, 26.93, and/or § 26.102, as the case may be.

[T.D. 6551, 26 FR 1490, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71712, Dec. 11, 1979. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

#### § 26.109 Taxpayment.

(a) *Distilled spirits.* The tax on distilled spirits contained in articles to be shipped to the United States, equal to the tax imposed in the United States by 26 U.S.C. 5001(a)(1), shall be computed in accordance with § 26.79 and paid in accordance with the applicable provisions of §§ 26.80, 26.81, and 26.111 through 26.113.

(b) *Wine.* The tax on wine used in the manufacture of articles to be shipped to the United States, equal to the tax